8.9.2 The list of respectable corporate names and/or brands involved in sponsorship is quite extensive : -

ESSO
Mobil
Marlboro
Hong Kong Bank
I.B.M.
Cartier
Caltex
Dunhill
American Express
Heng Seng Bank
South China Morning Post
Salem
Benson and Hedges
etc.

All these sponsorships involve products or services which are legal to sell and legal to advertise.

8.9.3 The COSH recommendations suggest that cigarette companies should be prevented from participation in this legitimate community role of sponsorship.

The recommendations also suggest that the recipients of cigarette company sponsorship should have their freedom of choice removed.

COSH is on record as going even further when in November 1987 its Executive Director urged the Governor not to attend a Hong Kong ballet performance which was sponsored by a company which also marketed cigarettes.

8.9.4 The Tobacco Institute contends that any proposal to ban cigarette company community support, to remove the right to choose from sponsorship recipients and the right to attend cigarette sponsored events from Hong Kong residents should be rejected.

Such a proposal strikes at the heart of community freedoms and would remove valuable, much needed support for sporting and cultural activities which benefit society so much.

8.9.5 Clearly, there are little support for the proposal amongst Hong Kong citizens themselves.

Independent research [1] shows that a significant majority of Hong Kong residents agree that the sponsoring of sporting, cultural or other activities by tobacco company should be allowed to continue.

8.9.6 Cigarette sponsorship is regulated within the industry "Code for Cigarette Brand Sponsorships" to ensure a cigarette pack or product slogan is not depicted.

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Yet anti-smoking activists have claimed that sponsorship activities will encourage people, particularly young people, to take up smoking.

8.9.7 Such claims are based on the erroneous conclusion that brand recall represents persuasion and results in purchase.

The fact is that young people characteristically recall an impressive number of brand names of many different products. A significant proportion pertain to products of negligible or no interest to young people. Brand recall, therefore, is not necessarily reflected in usage.

Young people can readily recall brand names of products as diverse as motor cars and soap powders. This does not mean that by the age of 15 they will be heavy users of "Honda" or "33" or a host of other branded products, including cigarettes.

8.10.0 Conclusion

8.10.1 In a territory such as Hong Kong, with its record of open trading and freedoms, the fundamental principles of freedom of choice and freedom of speech outweigh any consideration of censorship.

8.10.2 If proponents of a ban on advertising are seeking a reduction in smoking, their recommendations should be accompanied by adequate evidence that such a ban would bring about a reduction in consumption or smoking initiation/experimentation by young people. Evidence of this nature quite simply does not exist.

8.10.3 On the contrary, the World Health Organisation in its 1987 Report on Tobacco Consumption of 25 European countries, reports that only five countries have shown a decrease.

None of these five countries has an advertising or sponsorship ban.

8.10.4 The recommendation to ban cigarette advertising and sponsorship ignores worldwide evidence that cigarette advertising and sponsorship activities do not promote increased smoking. These activities, however, are fundamental to commercial competition in the market place.

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Source: https://www.industrydocuments.ucsf.edu/docs/qphl0000

8.10.5 Tobacco advertising and sponsorship, which is regulated by the industry "Code for the Marketing of Cigarettes" and Code for Cigarette Brand Sponsorships", is not a significant factor in juvenile cigarette experimentation and the elimination of advertising will not affect young people uptake. The elimination of tobacco advertising is only a form of censorship that will remove product development information for smokers.

The issue of tobacco products advertising is a highly complex one with many variables involved. Any ban of tobacco products advertising would in fact have the unintended consequence of having no impact on consumption patterns, or removing the private funding of government health messages and of imposing a ban on communications for a legal product. This would go to the very heart of rights in a free society. It would represent a form of government censorship.

It would be a serious assault on people's rights to be informed about a product that they choose to consume.

8.10.6 An absolute conclusion cannot be reached as to whether cigarette advertising, with its attendant warning notices discourages young people from smoking, or on the other hand whether censorship fuels curiosity and subsequent use.

How can COSH or its advisors explains, for example, the marked contrast between Norway (total advertising ban), and Hong Kong (advertising in all media and probably the most vigorous market in terms of brand promotion), where the former has a smoking incidence of one or more cigarettes a week a the age of 15, more than three times higher than the latter?

8.10.7 An advertising and sponsorship ban intended to influence young people is in fact a very risky proposal fraught with quandary. It has been suggested that a ban has the potential to increase curiosity, encourage the rebellious and even increase young people smoking.

8.10.8 The majority of Hong Kong residents agree that cigarette advertising and sponsorship should continue.

8.10.9 Accordingly this Institute submits that Government should not ban tobacco advertising and promotion in Hong Kong but that it should consider a positive pre-researched Government programme of communication designed to discourage young people in Hong Kong from making a decision on smoking until maturity.

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Source: https://www.industrydocuments.ucsf.edu/docs/qphl0000

References 8.0.0 - 8.10.9

1. Survey on attitudes to smoking and related issues in Hong Kong. Survey Research Hongkong Limited, September 1988.

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3. Boddewyn, J.J., "Tobacco Advertising Bans and Consumption in 16 Countries," International Advertising Association April, 1986.

4. Medical Sociology Research Team University of Helsink, Public Health Department Report to Finish National Board of Health, May 1987

5. "Juvenile Smoking Initiation & Advertising", Children's Research Unit, London, March 1989

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Source: https://www.industrydocuments.ucsf.edu/docs/qphl0000

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9.0.0 Recommendations to increase taxation and make special levies for sponsorship and anti-smoking activities.

9.1.0 Introduction

9.1.1 COSH recommendations 23 and 24 call for measures which are regressive, unfair and restrictive on freedom of choice.

9.1.2 Governments will continue to seek revenue from cigarettes. But a taxation policy which imposes punitive taxation in a selective manner is inconsistent with any fairness doctrine.

9.2.0 The Purpose of Taxation

9.2.1 The purpose of taxation is to fund Government expenditure. Current Government policy is directed towards a taxation system which ensures equitable contribution and benefit.

9.2.2 We contend, and we believe that most Hong Kong residents would agree with us, that it is inappropriate for Government to use selective taxation methods to modify personal behaviour. Sub-groups of society should not be expected to contribute disproportionately to the total revenue pool. Nor should selective taxation be used to penalise some people in the purchase of legitimate goods of their choice.

9.3.0 Social Costs

9.3.1 Science has not concluded that smoking causes disease or death. Even if the reverse were true, reviews of those studies which have claimed a disproportionate social cost have found them to be seriously flawed.

9.3.2 Mr. Alan Woodfield of Canterbury University New Zealand addressed the matter in a paper to a Wharton Applied Research Centre Conference "Analysis of Consumer Policy". Woodfield concluded : -

> "Since none of the literature on smoking regulation involves a complete or properly-constituted cost-benefit study, there appears to be no basis at present for the conclusion that efficient resource use requires a change in regulations towards the industry one way or the other." [1]

9.3.3 Two U.S. economic professors conducted an exhaustive review of data and studies that had claimed increased social costs through smoking. They stated : -

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"We have not found a single paper in which the life-time medical costs of smokers were shown to be higher than those of non-smokers." [2]

9.4.0 Freedom of Choice

9.4.1 Selective taxation on a particular product severely interferes with freedom of choice.

9.4.2 The majority of smokers who give up do so without assistance and of their own free will. Those former smokers have exercised freedom of choice in smoking and freedom of choice in giving up. They should not be forced into a decision on personal behaviour by selective taxation.

9.4.3 There is no part that taxation should play in the individual's exercise of the right of free choice in relation to his or her use of tobacco.

9.5.0 Cigarette Taxation is Regressive

9.5.1 Cigarette taxation does not pass a basic fairness test. It is in fact incompatible with Government initiatives toward a equitable tax base.

9.5.2 A study in the State of New York revealed that smokers in low income families paid proportionately more in taxation than those in wealthy families. [3]

Hong Kong data on the demographic incidence of smoking also show that the burden of tax on tobacco products falls disproportionately on lower income groups.

9.6.0 Cigarette Tax Discriminates

9.6.1 Current taxation on cigarettes is such that around 750,000 Hong Kong residents are contributing more than their share of total taxes.

9.6.2 If this discrimination continues (having as it does a basis of claimed "social costs"), logic demands that Government should discriminate according to all allegedly unhealthy or risky pursuits.

9.7.0 The Level of Taxation

9.7.1 Each packet of 20 cigarettes taxes the smoker just under $4. Government revenue benefits by over $1 billion per year. Increases in the price of cigarettes have kept ahead of rises in the Consumers Price Index for many years, and the product is one of the most heavily taxed consumer disposables.

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9.8.0 Earmarked Taxes

9.8.1 Earmarked taxes of the "one-cent-a-pack" or "1% on revenue" type generally get swallowed up in consolidated funds. History has shown that whatever reasons are offered for increasing cigarette taxes and earmarking them, in the long term the revenue is not used exactly as was intended.

Appropriate examples are the New Zealand one-cent-a-pack levy, the old UK "Road Fund" and the Finnish Government's allocation of 1% of tobacco revenue for an anti-smoking programme in 1977. Those taxes were quickly diverted to general revenue requirements, thus the additional taxation raised selectively became a discriminatory tax. In New Zealand, in 1982, the Department of Health stated :

> "It is not possible to clearly identify the total expenditure on activities implemented or expended with funds from this source." [4]

9.8.2 Broad based taxes (the thrust of current Hong Kong tax directions) should be used to fund projects that serve the community as a whole. If these taxes cannot provide enough revenue, the fair choice is clear. The burden should be reduced for all taxpayers by adopting a policy of cutting Government spending. Or the burden should be imposed equitably by increases in broad based taxation.

9.9.0 Sponsorship - Freedom to Choose

9.9.1 The recommendation to ban cigarette sponsorship and then levy cigarette sales to provide funds for sponsorship is highly hypocritical.

If cigarette sourced sponsorship funds are acceptable (as the recommendation suggests they are) then cigarette companies should be permitted to allocate funds as they see fit (within the "Code for Cigarette Brand Sponsorships) and sporting and cultural bodies should be free to decide whether they will accept tobacco sponsorship.

9.9.2 A levy fund of the type recommended is a potential bureaucratic minefield. What would be the criteria for allocation and who would make the decisions?

The recommendation would result in Government intervention in society in a manner which would breach the principles of freedom to choose.

9.9.3 Cigarette company sponsorships are already bound by the industry "Code for Cigarette Brand Sponsorships", they

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are supported by the majority of Hong Kong residents and they play a valuable role in society.

9.9.4 Cigarette sponsorships have not been shown to increase smoking and the banning of these sponsorship has not been shown to reduce smoking.

9.9.5 If Government is to be involved in sponsorship activities then the funds should be broad-base sourced not selectively and discriminately gathered and deployed.

9.9.6 The commercial world and its relationship with society is such that both parties accept the right to exercise choice. Such decisions are not regarded as being unfair or discriminatory.

9.10.0 Conclusion

9.10.1 Any suggestion that smokers should be further discriminated against by selective and punitive taxation should be rejected : -

- The use of selective taxation to modify personal behaviour is inappropriate.
- Science has not established that smoking causes disease or death.
- Cigarette prices have kept ahead of the CPI.
- Smokers have not been proven to impose more social costs on society than non-smokers.
- Smokers should not be expected to contribute disproportionately to Government revenue.
- The burden of tax on tobacco products falls disproportionately on lower income groups.
- Tobacco products are among the most heavily taxed "consumer disposable items".
- Total Government revenue from cigarette taxation already runs at over one billion dollars per annum.
- The right of sporting and cultural bodies to decide for themselves on sponsorship should be preserved in a free society.
- Government expenditure within society should be financed from the entire tax base not from discriminatory selective taxation.

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Source: https://www.industrydocuments.ucsf.edu/docs/qphl0000

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1. Woodfield, A., "Cost-Benefit Analysis of Consumer Policy : Framework and Critique," Analysis of Consumer Policy : Wharton University of Pennsylvania May 1981, p. 29-66.

2. Tollison, R.D., and Wagner, R.E., "Cost-Benefit Analysis and its Application to Smoking-Related Issues," 1978.

3. NY State Finance, "The Cigarette Taxation," James Savarese and Associates Inc., USA. (February 1983) p.4.

4. Collins, C.M., Department of Health, letter to W D & H O Wills (New Zealand) Ltd., 2 June 1982.

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10.0.0 Recommendations to extend the present restrictions for cigarettes to encompass other tobacco products.

10.1.0 Introduction

10.1.1 COSH recommendations 9 and 22 call for a wide range of requirements for tobacco products other than cigarettes.

10.1.2 If these recommendations are proposed against a background of an understanding of the size of the market represented by these products, they can only be regarded as unnecessary commercial harassment.

10.1.3 If they are proposed against a background of no understanding of the market, then some elementary research would have demonstrated that the recommendations are unworkable.

10.1.4 "Other tobacco products" is taken to mean pipe and roll-your-own tobaccos and cigars.

Almost all of these products are imported into Hong Kong from multiple sources and collectively represent less than 1% of the total tobacco market.

10.1.5 They are in turn broken down into a wide range of different products and brands.

Their impact is minimal, they are rarely advertised, if at all, and there would be a sufficient 'overflow' from the information requirements for cigarettes to effectively reach consumers of these other products.

10.1.6 It would be virtually impossible and certainly not economically viable for the manufacturers of these products to comply with Hong Kong law as it applies to cigarettes.

The production runs for this market are miniscule by international standards and suppliers would in all probability withdraw from the market if they faced uneconomical packaging requirements.

Accordingly the few selective consumers of these products would be unreasonably penalised.

10.1.7 It should also be realised that the product constituent deliveries of these products varies considerably from product to product and smoker to smoker. It would therefore be virtually impossible for constituent delivery information to be reliable or accurate.

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10.2.0 Conclusion

10.2.1 The minute share of market represented by this wide and varied range of products means that the recommendations are unwarranted and unworkable.

10.2.2 Any proposal which would deny consumers legal product availability should be rejected.

10.2.3 It is not the policy of the Hong Kong Government to dictate how its citizens run their lives and it is surely not the policy to deny consumers access to legal products of their choice.

10.2.4 Recommendations 9 and 22 if adopted could well result in this unacceptable policy being applied.

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Section 11

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11.0.0 A Recommendation to ban the sale of tobacco products to persons under the age of 18 years.

11.1.0 This refers to COSH Recommendation 13. This Institute would support both legislative and educative measures but puts forward its views in this section of this submission in the interests of exploring the issue and its ramifications.

11.2.0 Tobacco Industry Policy

11.2.1 Tobacco manufacturers and importers in Hong Kong do not encourage smoking by children. The industry considers that smoking is an adult custom, and that people are best able to choose whether or not they wish to smoke when they have reached adulthood.

The tobacco industry has taken action to ensure that the products are not steered to the young people. Under the industry "Code for the Marketing of Cigarettes", tobacco manufacturers and importers do not direct cigarette advertising towards young people (specifically defined in the Code as being under 18 years of age).

Even advertisements which would otherwise meet the restrictive requirements of the "Code for the Marketing of Cigarettes" are not used in media situations where they would be seen by a predominantly young audience.

11.2.2 People under 25 years of age are not depicted in cigarette advertisements, nor are celebrities who have special appeal for young people. Sporting, entertainment or other well-known people do not endorse cigarettes. All these restraints are observed by voluntary actions without the need for legislation.

11.2.3 Committed opponents of tobacco sometimes find it difficult to accept that cigarette brand advertisers can be responsible people and, instead, conjure up pictures of clever marketing intrigues supposedly designed to ensnare a ready supply of new cigarette-smoking children. Such notions are fantasy and are not reflected in Hong Kong's smoking statistics.

11.3.0 Why Do Children Smoke?

11.3.1 The literature on this subject shows that few definitive answers have been found and certainly no simple, straightforward explanation given, as to why some children try smoking.

11.3.2 The preponderance of evidence indicates that the influences appear to be varied and complex and almost certainly do not include cigarette advertising, sponsorship or availability of the product.

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Reasons propounded vary from curiosity to a declaration of independence; from a desire to conform within an age group to an expression of unconventional, anti-social attitudes : -

> "The main reason why children try their first cigarette is curiosity, whereas the main reasons why they take up regular smoking are to appear tough and conform to the social habits of their friends." [1]
>
> "... by now (ages 6-12) the child knows that smoking generally is forbidden so that to the curious, there seems to be an added attraction to the affair of smoking, an early declaration of independence." [2]
>
> "The greatest influence in starting smoking, however, appears to come from friends of similar age." [3]
>
> "The motivation of young people to smoke came neither from advertising nor from the purchasing outlets." (vending machines) [4]

11.4.0 Education

11.4.1 Given its policy on children's smoking, it should be obvious that the tobacco industry in Hong Kong has no objection to schemes designed to discourage children from a decision on smoking until they reach adulthood.

The industry does submit however, that education programmes should be based on scientific facts, not opinions or presumptions. Educators should take special note of this point. If children's education programmes are not entirely factual, it is highly likely that older teenagers, as their decision-making ability matures, will rebel if they consider they have been misled.

11.4.2 The authors of a report on an Australian survey of smoking incidence in school children noted that efforts to reduce smoking were not achieving their desired goals and that they could well be ineffective, insufficient or even counter productive. [5]

The possibility of counter productivity seems quite real. Some research suggests that the rebellious one syndrome may prevail. The "boomerang" effect, as it is sometimes called, is known to occur in instances where children are harassed to the point of rebellion.

11.4.3 An over-emphasis on smoking education may also create the impression that non-smoking is the panacea for all ills.

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Priorities need to be established, particularly in the light of increased drug taking and alcohol consumption.

11.5.0 Legislation

11.5.1 Legislation which formerly banned cigarette sales to young people in New Zealand was repealed in 1981 (without any prompting from the tobacco industry) when the Police Offences Act (1927) was modernised. The ban was regarded as unenforceable and placing an inappropriate burden on retailers. Its repeal was supported by the police officers of the day. The law was reintroduced in 1987 but no new trends in minors smoking are yet evident nor is it clear the Law is being enforced. It is widely held that laws banning cigarette sales to minors are unenforceable and a number of countries do not have such a law.

11.5.2 Nevertheless, the tobacco industry would have no philosophical opposition to legislative prohibition on sales to youngsters and would support legislation with an appropriate communications campaign.

11.6.0 Conclusion

11.6.1 Perhaps young people will continue to experiment with cigarettes just as they do with numerous other social customs, no matter what action is taken or not taken. The Hong Kong tobacco industry's established policy on young people and smoking is that the industry does not condone smoking, nor does it encourage young people to smoke.

11.6.2 The Hong Kong tobacco industry is quite prepared to discuss the matter with Government and to consider support for Government initiatives which may be decided upon.

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Source: https://www.industrydocuments.ucsf.edu/docs/qphl0000

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3. Ashton, H., and Stepney R., "Smoking: Psychology and Pharmacology." (Tavistock, London, UK.) 1982, p 43.

4. Expert Hearings in the German Federal Parliament, 24 April 1985.

5. S.R. Leeder, J.K. Peatt, A.J. Woolcock, "Cigarette Smoking in Sydney Schoolchildren Aged 12 to 13 Years : 1971 to 1975." Medical Journal of Australia 5 March 1977,p 325-329.

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12.0.0 A recommendation to ban smoking in any advertisement of any kind.

12.1.0 Introduction

12.1.1 COSH recommendation 19 proposes an iniquitous interference in the affairs of all advertisers and reflects a complete intolerance with anything to do with smoking. The recommendation, in fact, represents a form of censorship which would be foreign to Hong Kong and which would set a sinister precedence.

12.1.2 Anti-smokers are entitled to their views but they must accept that for most citizens smoking is a part of real life and that discrimination or censorship is not a desirable element for Hong Kong society.

12.1.3 Advertisers are entitled to depict real life situations in their advertising and if they wish to depict smoking, so be it.

12.1.4 If Government were to bow to this type of pressure, how would it react to other pressure groups who would prefer to see the removal from lawful communication of products or pursuits which they find objectionable.

Are we to have restrictions which would ban drinking, underwear, romance, fatty foods, fur coats, fast cars, motorbikes, etc. in advertising? A mature attitude to real life says "no".

12.1.5 Conclusion

12.1.6 Smoking is legal, is acceptable to society at large and is visible in real life. To deny any advertiser the right to depict, in good taste, a part of real life is nothing more than censorship.

12.1.7 The sinister implications of this recommendation and the precedence it would set should be recognised and the proposal rejected.

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13.0.0 A recommendation to increase the size of the warning notice in cigarette advertisements.

13.1.0 COSH recommendation 10 demonstrates that some opponents of tobacco will not be satisfied until anything to do with smoking is defaced.

13.1.0 The recommendation, in fact, suggests that cigarette advertisements are not well read. Why else would a call be made for 20% of a brand message to be devoted to a warning notice.

13.1.1 The warning notice is in place now. Its specifications are such that advertisers already contribute 10% of the cost of a printed advertisement to a Government warning.

13.1.2 And the warning is noted. The majority of Hong Kong residents agree that the present warning on cigarette advertisements is clear enough.[1]

13.1.3 Furthermore, the proposal to place the warning at the top and bottom of any advertisement is a clear intention to denigrate the legitimate communication of a legal brand of product.

13.1.4 <u>Conclusion</u>

13.1.5 World wide trends clearly indicate that some people will continue to smoke. And those people are entitled to legitimate communications for a product they choose to enjoy. Government has decided that such communications should carry a warning notice.

This is done and the majority of both smokers and non smokers agree that the warning is clear enough. [1]

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Source: https://www.industrydocuments.ucsf.edu/docs/qphl0000

(1) Survey on attitudes to smoking and related issues in Hong Kong. Survey Research Hongkong Ltd., September 1988.

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